

STATE OF INDIANA) IN THE MARION CIRCUIT/SUPERIOR COURT
) SS:
COUNTY OF MARION) CAUSE NO. _____

49D010605M1018091

STEVE CARTER,
INDIANA ATTORNEY GENERAL,

Petitioner,

v.

SCANDINAVIAN COMFORT, INC.,

Respondent.

FILED

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MAY - 1 2006

Doug Orr
CLERK OF THE
MARION CIRCUIT COURT

PETITION TO ENFORCE CIVIL INVESTIGATIVE DEMAND

Attorney General Steve Carter, by Deputy Attorney General Terry Tolliver, petitions the Court, pursuant to Indiana Code § 4-6-3-6, for an order to enforce a Civil Investigative Demand.

RESPONDENT

1. The Respondent, Scandinavian Comfort, Inc., is a For-Profit Foreign Corporation engaged in the sale of furniture to consumers, from its principal place of business located in Marion County at 5305 East 82nd Street, Indianapolis, Indiana, 46250.

FACTS

2. At least since March 28, 1988, the Respondent has engaged in the retail sale of furniture to consumers.

3. On June 7, 2005, the Respondent entered into an Assurance of Voluntary Compliance ("AVC") with the Indiana Attorney General's Office.

4. As part of the terms of the AVC, the Respondent, "in soliciting and/or contracting with consumers agree[d] to refrain from representing either orally or in writing it is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when it knows or reasonably should know it cannot."

5. Furthermore, upon entering the AVC, "The Respondent, in soliciting and/or contracting with consumers agree[d] to fully comply with the Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*"

6. Due to information provided in consumer complaints, the Attorney General has reason to believe the Respondent may be in possession, custody, or control of documentary material, and may have knowledge of facts relevant to an investigation being conducted to determine whether the Respondent has violated the prior AVC, as well as the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(1), by misrepresenting the benefits or characteristics of a consumer transaction and Ind. Code § 24-5-0.5-3(a)(10), by misrepresenting the subject of a consumer transaction is able to be delivered within a reasonable time, when it knows it would not.

7. Pursuant to Ind. Code § 4-6-3-3, the Attorney General served Civil Investigative Demand 05-039 ("CID") upon the Respondent by first-class mail on December 6, 2005, requesting a response by December 16, 2005. Attached and incorporated by reference as Exhibit "A" is a true and accurate copy of the CID served upon the Respondent.

8. After several extensions, the Attorney General received the Respondent's response on February 14, 2006. In its response, the Respondent produced a stack of invoices, including fourteen (14) invoices, dating as far back as July 9, 2005 marked, "not completed."

9. While the Respondent's response appears to at least partially satisfy response Request for Production Number One of the CID, the Respondent has refused to address or object to Interrogatories One through Six, as well as Requests for Production Number Two and Three.

10. On March 1, 2006, Deputy Attorney General Terry Tolliver contacted the Respondent's counsel, Patrick Badell, via Facsimile and U.S. Mail and requested a complete response to the CID by March 11, 2006. Attached and incorporated by reference as Exhibit "B" is a true and accurate copy of this letter requesting a complete response to the CID.

11. On March 6, 2006, the Respondent's counsel, Patrick Badell, responded to the Attorney General's request for a complete response to the CID and stated, "I will meet with my client this week and attempt to obtain the additional answers that you are requesting." Attached and incorporated by reference as Exhibit "C" is a true and accurate copy of the Respondent's counsel's response to the Attorney General's request for a complete response.

12. On March 29, 2006, Deputy Attorney General Terry Tolliver sent a letter to the Respondent's counsel, Patrick Badell, and requested a complete response to the CID by April 9, 2006. Attached and incorporated by reference as Exhibit "D" is a true and accurate copy of this letter requesting a complete response to the CID.

13. As of today, neither the Respondent, nor the Respondent's counsel, has responded to the March 29, 2006 letter sent by Deputy Attorney General Terry Tolliver, or provided the information required by the Attorney General to fully conduct his investigation.

14. The Respondent has failed to fully respond to the CID, and its refusal to do so is in bad faith.

15. Pursuant to Ind. Code § 4-6-3-6, if a person objects or fails to obey a Civil Investigative Demand, the Attorney General may file an application for an order to enforce the Demand in a Circuit or Superior Court in the County in which the Respondent resides, or maintains a principal place of business within the state.

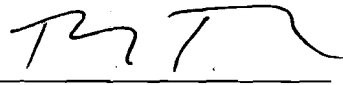
RELIEF

WHEREFORE, the Attorney General, requests the Court set this petition for hearing and following such hearing, enter an order requiring the Respondent to answer the Civil Investigative Demand, to pay the Office of the Attorney General its reasonable costs of investigation including attorneys' fees, and all other proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Attorney No. 4150-64

By:


Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

Indiana Office of the Attorney General
302 West Washington Street, 5th Floor
Indianapolis, IN 46204-2794
Telephone: (317) 233-3300

STATE OF INDIANA
ATTORNEY GENERAL
STEVE CARTER

December 6, 2005


Lars Odgaard, President
Scandinavian Comfort, Inc.
5305 East 82nd Street
Indianapolis, IN 46250

Re: Civil Investigative Demand 05-039

Dear Mr. Odgaard:

Enclosed please find a Civil Investigative Demand regarding Scandinavian Comfort, Inc..
If you have any questions, please contact Terry Tolliver directly at 317-233-3300.

Sincerely,


Melissa D. Guffey
Paralegal for Terry Tolliver
Deputy Attorney General
Consumer Protection Division



DIVISION OF CONSUMER PROTECTION
INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR
302 WEST WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770
TELEPHONE (317) 232-6330 • (800) 382-5516

Blumberg No. 5138

STATE'S
EXHIBIT

A

**OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION**

IN RE: SCANDINAVIAN COMFORT, INC.,) CIVIL INVESTIGATIVE
Respondent.) DEMAND NO. 05-039

THE ATTORNEY GENERAL TO:

**Lars Odgaard, President
Scandinavian Comfort, Inc.
5305 East 82nd Street
Indianapolis, IN 46250**

CIVIL INVESTIGATIVE DEMAND

Attorney General Steve Carter, pursuant to the provisions of Ind. Code § 4-6-3-3, states he has reasonable cause to believe you may be in possession, custody, or control of documentary material, or may have knowledge of a fact relevant to an investigation being conducted to determine whether the Respondent, Scandinavian Comfort, Inc., may be in violation of Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, by misrepresenting the benefits or characteristics of a consumer transaction and/or misrepresenting the subject of a consumer transaction is able to be delivered within a reasonable time, when it knows it would not.

The Attorney General demands you, your representative, or agent, respond to this Civil Investigative Demand by providing answers to the attached Interrogatories and the documents specified in the attached Request For Production.

You are to appear at the Office of the Attorney General, Consumer Protection Division, 302 West Washington Street, Indiana Government Center South, 5th floor, Indianapolis, Indiana on **December 16, 2005, at 10:00 a.m.**, or at such time as may be agreed upon, to respond to the questions contained in this Civil Investigative Demand, and to bring with you, produce and allow the Attorney General, by Terry Tolliver, Deputy Attorney General, to inspect, photocopy, and transcribe any and all information requested in the attached Interrogatories and Request For Production.

WITNESS my hand and seal of the Office of the Attorney General, State of Indiana, this
2nd day of December, 2005.

STEVE CARTER
Indiana Attorney General
Attorney no. 4150-64

By: 

David A. Paetzmann
Deputy Attorney General
Attorney No. 6392-23

Please direct your response and all inquiries related to this Civil Investigative Demand to:

Terry Tolliver
Deputy Attorney General
Office of the Attorney General
302 West Washington Street
Indiana Government Center South, 5th Floor
Indianapolis, IN 46204
(317) 233-3300
ttolliver@atg.state.in.us

INTERROGATORIES

I. INSTRUCTIONS

A. In answering these interrogatories, you are required to furnish all information presently available to you or that can be obtained through reasonable inquiry, including information in the possession of your attorneys, accountants, advisors or other person directly or indirectly employed at, or connected with, you or your attorneys, and anyone else otherwise subject to your control.

B. Answer each interrogatory separately and fully in writing and under oath, unless it is objected to, in which event the reason for each objection must be stated in lieu of the answer.

C. If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information, answer to the extent possible, specifying your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

D. A question seeking information contained in, information about, or identification of, any document may be answered by providing a copy of such document for inspection and copying, or by furnishing a copy of such document without a request for production.

E. Your reply to each interrogatory should include attachments of as many pages as necessary to fully and completely respond and should be identified by the number corresponding to each interrogatory as set forth below.

F. With respect to each interrogatory and subpart thereof, in addition to providing the information requested, also:

1. Identify each document relied upon or which forms a basis for your answer to these interrogatories;

2. Identify each person who assisted or participated in preparing and/or supplying any of the information given in answer to or relied upon in preparing answers to these interrogatories;
3. State whether the information furnished is within your personal knowledge, and, if not, the names, if known, of each person to whom the information is a matter of personal knowledge; and
4. If you maintain any document or record, which relates to an answer to an interrogatory, has been destroyed, state the content of the document, the location of any copies of said document, the date the document was destroyed, and the name of the person who ordered or authorized the destruction.

G. If you claim an attorney-client privilege, or the attorney work-product doctrine, is applicable to any document, the identification of which is sought by these interrogatories, state and identify as to each document:

1. The date the document was prepared or executed;
2. The drafter or author of document;
3. Each and every person who prepared or assisted in the preparation of the document;
4. Each and every person who received the document;
5. Present location and custodian of the document; and
6. Explain the circumstances upon which you base your claim of privilege.

H. Grammar and syntax as used in these interrogatories shall be construed and interpreted to give proper meaning to its context. By way of illustration, and not by way of limitation, the singular may be construed to include the plural, the plural, the singular, and use of gender or tense may be construed to include all genders and tenses.

II. DEFINITIONS

As used in these Interrogatories and attached Request for Production of Documents, the following terms have the following meanings:

A. "Person" includes any individual, corporations, partnerships, sole proprietorships, unions, trusts, associations, any unincorporated organization or governmental or political subdivision thereof, federations, joint stock companies, or any other kind of entity.

B. "Document" means any written, printed, typed, handwritten, electronic, or otherwise recorded matter of whatever character, in your possession, custody, or control, or known by you to exist or to have existed, including but not limited to letters, purchase orders, memoranda, telegrams, notes, contracts, catalogs, agreements, brochures, diaries, analyses, reports, work papers, invoices, calendars, inter-office communications, statements, announcements, documents or programs saved on a computer drive or disk, electronic mail, photographs, photographic matter of any nature or otherwise recorded matter of whatever character, and any audio or video recordings. All copies of documents containing any alterations, annotations, or that differ in any other way from the originals or copies referred to in the preceding sentence are deemed separate documents from the originals or copies. If any document requested to be produced was, but is no longer in your possession or control or no longer in existence, state whether it is: (a) missing or lost (b) destroyed; (c) transferred voluntarily or involuntarily to other and, if so, to whom; or (d) otherwise disposed of, stating the

circumstances surrounding the authorization for such disposition and state the approximate date thereof.

C. "Identify", used in reference to an individual person, means to state:

1. the person's full name and present or past known address; and
2. the person's present or last known business position and business affiliation.

D. "Identify", used in reference to any other person, means to state the type of entity, the person's full name, occupation and present or last known address, and last known employment.

E. "Identify", used in reference to a document, means to state:

1. its date;
2. the author or addresser;
3. the addressee;
4. all recipients of all copies;
5. its subject matter;
6. the type of document; and
7. the name and last known address of the person who presently has custody of it.

F. "Identify", used in reference to a communication, means to state:

1. its date;
2. the place where it occurred;
3. the type of communication;
4. its substance;
5. the identity of the person who made it;

6. the identity of the person who received it or a copy and all other persons present; and

7. the name and last known address of the person who presently has custody of it

G. "You" or "your" means Scandinavian Comfort, Inc. and any and all of its employees, agents, and representatives acting within the scope of their employment.

H. "Currently affiliated with" shall be construed broadly to include any organization for which you maintain some form of control over its affairs. This shall include, but is not limited to, those organizations for which you may be considered an owner, agent, or investor, regardless of whether you receive compensation.

I. All other words and phrases not otherwise defined in these Interrogatories and attached Request for Production of Documents shall have their usual and customary meaning. Furthermore, words and phrases that may be considered "terms of art" by members of a particular occupation or profession shall have their usual and customary meaning as used within that particular occupation or profession.

INTERROGATORY 1:

Identify each person who provided information in response to these interrogatories.

ANSWER:

INTERROGATORY 2:

Identify all businesses and entities you have owned, or are currently affiliated with, that have engaged in the sale of furniture.

ANSWER:

INTERROGATORY 3:

Identify any and all suppliers and/or distributors from whom you have purchased furniture, or to whom you have authorized shipments of furniture, to fulfill consumers' furniture orders.

ANSWER:

INTERROGATORY 4:

Since June 7, 2005, please state the number of consumers to whom you or any person identified by you in response to Interrogatory number two (2), sold furniture, and identify each sale by the following:

- a. the name, address, and telephone number of the consumer;
- b. the furniture sold;
- c. the date of sale;
- d. the sale price;
- e. the date you represented the furniture would be delivered to the consumer;
- f. whether the furniture was in your inventory on the date of sale, and if not, identify the date you placed the order and the company from whom you ordered the furniture; and
- g. the date the furniture was ultimately delivered to the consumer.

ANSWER:

INTERROGATORY 5:

For each sale identified in your answer to Interrogatory number four (4), identify each consumer who purchased furniture from you and had not received his or her entire order by the represented delivery date and state the reason why each consumer had not received his or her entire order from you.

ANSWER:

INTERROGATORY 6:

Identify any civil action in which you have been found liable for your business practices, or any other allegation involving unfair, false, misleading, or deceptive practices. For each civil action identified by you, state the names of the parties to each action, the court in which each action was filed, the cause or docket number of the lawsuit, the date each action was filed, and the date judgment was entered, if applicable.

ANSWER:

I affirm, under the penalties for perjury, that the foregoing representations are true.

Dated: _____

SCANDINAVIAN COMFORT, INC.

By: _____

Printed Name

Title

REQUEST FOR PRODUCTION

INSTRUCTIONS

If your response is the documents requested are not in your possession or custody, describe in detail the unsuccessful efforts you made to locate the records. If your response is the requested documents are not in your control, identify who has control and the location of the documents. If a request for production seeks a specific document, or an itemized category not in your possession, control, or custody, provide any documents you have containing all or part of the information contained in the requested document or category. The definitions and instructions supplied in the attached Request for Interrogatories shall be used to determine the meaning of a word. Identify the source of each document you produce.

1. For each sale identified in your response to Interrogatory number five (5), please produce a copy of all documentation related to each transaction made by you, since June 7, 2005, in which the consumer did not receive his or her entire furniture order by the represented date, or have not received their furniture order at all, including, but not limited to, bills of sale, invoices, receipts for payments made by consumers to you, proof of your order of the furniture, proof of furniture delivery to the consumers by you, copies of refunds made by you to consumers, or any other relevant documents.
2. Please produce a copy of each civil judgment identified by you in response to Interrogatory number six (6).
3. Please produce a copy of all documents identified or otherwise relied upon in response to any of the above Interrogatories not already supplied pursuant to these Requests for Production.

STATE OF INDIANA
ATTORNEY GENERAL
STEVE CARTER

VIA FACSIMILE (765) 932-4787 AND U.S. MAIL

March 1, 2006

Re: Civil Investigative Demand 05-039

Patrick Badell
Badell and Wilson, P.C.
110 Perkins Street, P.O. Box 337
Rushville, IN 46173

Dear Mr. Badell:

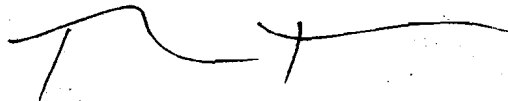
I am writing in regards to Civil Investigative Demand 05-039 ("CID"), which was issued to your client, Lars Odgaard, in his capacity as President of Scandinavian Comfort, Inc., on December 6, 2005. Your client finally responded on February 14, 2006, but failed to fully comply with the Attorney General's request.

Your client's response consisted of a stack of invoices and receipts. Your client failed to respond to the Interrogatories and failed to produce many of the requested documents, including copies of documents related to its purchase of furniture from its suppliers, as well as proof of either delivery or refunds for each of these transactions, as well as any other relevant documents. As for the Interrogatories, your client has not identified its suppliers, explained why consumers are not timely receiving their orders from your client, or identified any civil actions it has been involved in.

The Attorney General has been very patient with your client. As you are aware, your client's response to the CID was originally due on or before December 16, 2005 and your client continued to ignore the request for nearly two (2) months. Even so, its response and conduct thus far has not met the minimum standards of good faith.

Please provide a complete response to the CID within the next ten (10) days. If I do not receive this, I will seek a Court Order compelling your client's response, as well as seek reimbursement of all costs incurred in seeking this Order. Your client's prompt attention to this request and cooperation with this investigation is necessary and will be greatly appreciated. Should you have any questions or concerns, please feel free to contact me directly at (317) 233-3300.

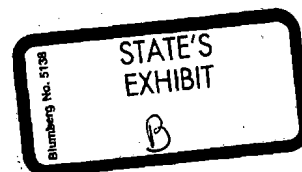
Sincerely,



Terry Tolliver
Deputy Attorney General
Consumer Protection Division



DIVISION OF CONSUMER PROTECTION
INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR
302 WEST WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770
TELEPHONE (317) 232-6330 • (800) 382-5516



*** TX REPORT ***

TRANSMISSION OK

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ST. TIME	03/01 14:53
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STATE OF INDIANA
ATTORNEY GENERAL
STEVE CARTER

VIA FACSIMILE (765) 932-4787 AND U.S. MAIL

March 1, 2006

Re: Civil Investigative Demand 05-039

Patrick Badell
Badell and Wilson, P.C.
110 Perkins Street, P.O. Box 337
Rushville, IN 46173

Dear Mr. Badell:

I am writing in regards to Civil Investigative Demand 05-039 ("CID"), which was issued to your client, Lars Odgaard, in his capacity as President of Scandinavian Comfort, Inc., on December 6, 2005. Your client finally responded on February 14, 2006, but failed to fully comply with the Attorney General's request.

Your client's response consisted of a stack of invoices and receipts. Your client failed to respond to the Interrogatories and failed to produce many of the requested documents, including copies of documents related to its purchase of furniture from its suppliers, as well as proof of either delivery or refunds for each of these transactions, as well as any other relevant documents. As for the Interrogatories, your client has not identified its suppliers, explained why consumers are not timely receiving their orders from your client, or identified any civil actions it has been involved in.

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Please provide a complete response to the CID within the next ten (10) days. If I do not receive this, I will seek a Court Order compelling your client's response, as well as seek reimbursement of all costs incurred in seeking this Order. Your client's prompt attention to this request and cooperation with this investigation is necessary and will be greatly

BADELL AND WILSON, P.C.
LAWYERS
110 Perkins Street
P.O. Box 337
Rushville, Indiana 46173-0337

PHILIP J. BADELL (1918-1980)
PATRICK C. BADELL
RONALD L. WILSON

TELEPHONE (765) 932-3951
INDIANAPOLIS LINE (317) 546-4097
TELEFAX (765) 932-4787
E-MAIL: bwlaw@bwlawoffice.com

March 6, 2006

RECEIVED

MAR 09 2006

Mr. Terry Tolliver
Deputy Attorney General
Consumer Protection Division
Office of the Indiana Attorney General
302 West Washington St., IGCS 5th Floor
Indianapolis, IN 46204

ATTORNEY GENERAL OF INDIANA
CONSUMER PROTECTION

RE: Scandinavian Comfort, Inc.
AVC #05-024

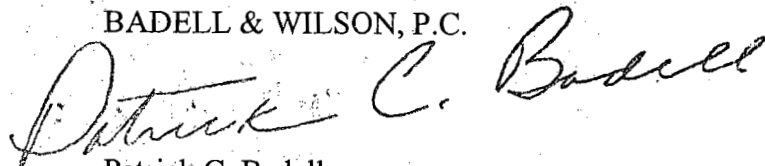
Dear Mr. Tolliver:

I will meet with my client this week and attempt to obtain the additional answers that you are requesting.

I also wish to point out to you that Mrs. Carol Comer, who initiated this action, has been reimbursed all of her funds and has had her funds for a substantial period of time as she charged back her credit card and those funds charged on her credit card were withdrawn from my client's account and reimbursed to Mrs. Comer.

Sincerely,

BADELL & WILSON, P.C.


Patrick C. Badell

PCB/aay

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Blumberg No. 5138

STATE'S
EXHIBIT

C

STATE OF INDIANA
ATTORNEY GENERAL
STEVE CARTER

March 29, 2006

Re: Civil Investigative Demand 05-039

Patrick Badell
Badell and Wilson, P.C.
110 Perkins Street, P.O. Box 337
Rushville, IN 46173

Dear Mr. Badell:

Once again, I am writing in regards to Civil Investigative Demand 05-039 ("CID"), which was issued to your client, Lars Odgaard, in his capacity as President of Scandinavian Comfort, Inc., on December 6, 2005. I have requested a complete response to the CID, but your client continues to ignore the Attorney General's requests.

You had written me on March 6, 2006 and stated you would be discussing this matter with your client to obtain the requested information. To reiterate, your client failed to respond to the Interrogatories and failed to produce many of the requested documents, including copies of documents related to its purchase of furniture from its suppliers, as well as proof of either delivery or refunds for each of these transactions, as well as any other relevant documents. As for the Interrogatories, your client has not identified its suppliers, explained why consumers are not timely receiving their orders from your client, or identified any civil actions it has been involved in.

Please provide a complete response to the CID within the next ten (10) days. If I do not receive this, I will seek a Court Order compelling your client's response, as well as seek reimbursement of all costs incurred in seeking this Order, as I consider your clients actions to be in bad faith. Your client's prompt attention to this request and cooperation with this investigation is necessary and will be greatly appreciated. Should you have any questions or concerns, please feel free to contact me directly at (317) 233-3300.

Sincerely,



Terry Tolliver
Deputy Attorney General
Consumer Protection Division



DIVISION OF CONSUMER PROTECTION
INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR
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STATE'S
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Exhibit No. 5138